



**DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
ENFORCEMENT DIVISION
*DIRECTIVE***

**DIRECTIVE
NUMBER
305**

**DISTRIBUTION
DATE
October 1, 1998**

1. **SUBJECT: CORPORATE AND BUSINESS STATUS CHECKS**
2. **PURPOSE:** To set forth the procedures for determining whether all proper respondents have been named in the complaint prior to initiating discovery or referring the case to the Legal Division for the enforcement of discovery or issuance of accusation, and the procedures for verifying that information.
3. **BACKGROUND:** It is important to correctly name all of the respondents who should be held liable for the discriminatory conduct in a complaint. Failure to properly name a respondent could impede the enforcement of the Department's discovery efforts, raise jurisdictional issues, or preclude a respondent's liability. Prior to issuing a discovery request or referring a case to the Legal Division for enforcement of discovery or for accusation, it is necessary to conduct a corporate or business status check with the Secretary of State's office for a case involving a respondent that is a corporation or business in order to verify the correct business name(s) and any "dba's" (doing business as) the respondent(s) may be using.
4. **PROCEDURES:**
 - A. **Process:**
 - 1) The assigned Consultant is responsible for ensuring that all respondents are properly named before initiating discovery, or referring a case to the Legal Division for enforcement of discovery or for accusation. When the check would cause the referral of a case to the Legal Division for accusation to be delayed beyond ninety (90) days of its file date, the case should be referred to the Legal Division while the status is being checked.
 - 2) When a status check has been completed such should be noted in the Case Diary. If it has not been completed prior to referral to the Legal Division for accusation, the date of the initiation of the check should be noted.
 - 3) All cases requiring a corporate or business status check should be referred to the District Administrator for approval. The Secretary of State's office charges for all corporate information requests. District Administrators have been supplied with the Department's prepaid account number which must be used when contacting the Secretary of State's office.

- 4) When making a request for corporate information, the following must be provided:
 - a) DFEH Corporate Status Account Number;
 - b) Department and Unit Name; and
 - c) Requestor's name, address and telephone number;

B. Checking Procedure:

- 1) Corporations:
 - a) When contacting the Secretary of State's Information Retrieval Certification Unit (IRC) prepay account line at (916) 653-1931, identify the corporation's name and request the following:

➤ Statement of Officers Numbers.

- b) The Secretary of State can also provide information regarding:
- the type of corporation;
 - the agent for service in California;
 - the names of the chief officers of the corporation (e.g., Chief Executive Officer, Chief Financial Officer, Secretary, etc.);
 - the principal place of business; and
 - whether the corporation is a California corporation.
- c) If IRC does not have the information, the business entity may be conducting business as a limited partnership. If such is the case, a check should be made through the Secretary of State, Limited Partnership Unit at (916) 653-3365.
- d) After obtaining the corporation number, requests for certified copies of Articles of Incorporation, the Statement of Officers or a Certificate of Filing and Suspension, should be prepared (an original and 3 copies, one of which to be retained in the case file) (refer to Attachment 1 - "Sample Letter, Request for Articles of Incorporation" and Attachment 2 - "Sample Letter, Statement of Officers/Certificate of Filing and Suspension") and mailed enclosing a self-addressed return envelope to:

Secretary of State
Information Retrieval Certification Unit
1500 11th Street
Sacramento, CA 95814

2) Businesses:

Where an entity is not a corporation, it will be necessary to obtain a Fictitious Business Name Statement from the County Clerk of the county in which the entity is operating (refer to Attachment 3 - "Sample Letter, Fictitious Business Name Statement").

3) Amending the Complaint:

If the check(s) provide names of "dba's" or individuals who are not named in the complaint, the complaint will be amended to include all liable parties. If there is any question as to who should be named, the attorney

assigned to the District Office should be contacted prior to forwarding the file to the Legal Division.

5. **APPROVAL:**

Nancy C. Gutierrez, Director

Date

**Sample Letter
Request for Articles of Incorporation**

Date

Secretary of State
Corporate Filing Division
Corporate Status and Records
1500 11th Street
Sacramento, CA 95814

RE: Case Name:
DFEH Case No:
Corporate Name:
Corporation No:
DFEH Account No:

Dear Secretary of State:

The Department of Fair Employment and Housing requests that it be provided with a certified copy of the Articles of Incorporation for the above-named corporation. Enclosed is a self-addressed envelope for your convenience.

If you have no record of the corporation, please so advise.

Thank you for your courtesy and cooperation.

Sincerely,

District Administrator

Enclosure (Letter in triplicate/self-addressed envelope)

Sample Letter
Statement of Officers/Certificate of Filing and Suspension

Date

Secretary of State
Corporate Filing Division
State of Officers
1500 11th Street
Sacramento, CA 95814

RE: Case Name:
DFEH Case No:
Corporate Name:
Corporation No:
Statement of Officers No:
DFEH Account No:

Dear Secretary of State:

The Department of Fair Employment and Housing requests that it be provided a certified copy of the Statement of Officers regarding the above-named corporation. Enclosed is a self-addressed envelope for your convenience.

If there is no record of such corporation, please so advise. In the event that the corporation has had its corporate status suspended, please send a copy of the Certificate of Filing and Suspension.

Thank you for your courtesy and cooperation.

Sincerely,

District Administrator

Enclosures (Letter in Triplicate; Self-addressed envelope)

**Sample Letter
Fictitious Business Name Statement**

Date

Office of County Clerk
County of _____
Business Filing and Registrations
(Address)
(City, State and Zip Code)

RE: Case Name:
DFEH Case No:
Business Name:

Dear County Clerk:

The Department of Fair Employment and Housing requests that it be provided with a certified copy of the Fictitious Business Name Statement which may have been filed by the following business:

1. Business Name:
2. Address
3. City
4. Name of Registrant:

The statement is to be used for official business only. Enclosed is a self-addressed stamped envelope for your convenience.

The Department is a State agency which is exempt from the fees generally charged pursuant to Government Code sections 6103 and 26857.

Thank you for your courtesy and cooperation.

Sincerely,

District Administrator

Enclosures (Self-addressed, stamped envelope)